

**Questions and Answers for the Electronic Discovery Services RFP**  
**Job Number 21-12-CAO**  
May 18, 2012

- 1) Are you seeking a software installation, or are you also open to a SaaS model or outsourced electronic discovery services?

**Response:** *For the e-discovery RFP (as opposed to the email archiving RFP that was also issued), the outsourced or SaaS (software as a service) is our likely preferred option. We are not looking to license software that would be installed on the City's computers to do this work, but we are looking for a vendor who will provide the software and some level of service to facilitate review by our attorneys (in house or outside) .*

- 2) What protection will be afforded information that we designate as proprietary and confidential?

**Response:** *As proposals are subject to negotiation, we will not release any information until after contract award. Then, the City will not disclose information externally unless we receive a public records request. If that occurs, we will give the party whose records have been requested two weeks notice to allow time for them to obtain a court order to prohibit us from releasing the records if we believe the records do have to be disclosed.*

- 3) Do you have a budget for this project that should inform our proposed solutions? **And;**

Can the City provide a high level budget estimate for this project? This will help us verify that our solution will be cost viable. **And;**

Is this project budgeted for in 2012 or will this be funded out of the 2013/2014 budget?

**Response:** *At this point, the City does not have a set budget for this contract. However, funds can be reallocated and the City will soon begin the budget process for 2013-2014. Since the City will have to find money for this contract, we will be assessing the proposals to determine which solutions are most cost effective. With that in mind, firms may want to structure their proposals with additive options.*

- 4) Do you have a sense of the expected volumes of data to be processed (for example, typical volume per project or average quarterly/annually)? **And;**

Can the City provide an estimate of the amount of data they expect to process for each case? For each year? **And;**

Are there averages for the following:

- Number of cases per year?
- Volume of data (GB) per case? Per year?
- Number of custodians per case? Per year?
- Volume of data (GB) per custodian?
- Volume of production per case?

**Response:** *We cannot anticipate what the volumes of data to be processed will be, especially given our limited experience. (See the answer to question 5.)*

- 5) What type of electronic discovery projects do you anticipate (for example, principally litigation or principally public records requests)? **And;**

Can the City provide an estimate on the number of cases they expect to process each year?  
**And;**

What is the breakdown of types of cases we can expect?

**Response:** *In the last couple of years the City has only had two occasions where we required assistance from an electronic discovery services provider. The first occasion was the result of a public record request and the cost for the required services was approximately \$6,500. The second occasion was due to the need for a litigation hold and this resulted in a \$68,000 contract with an electronic discovery services provider. So, while we have had very limited experience so far, we do anticipate a greater need for services in the coming years and wish to have a contract in place when services are required.*

- 6) There appears to be text missing on page 24 of the RFP, regarding "the following task areas." Can you clarify this section?

**Response:** *We apologize for not catching that in our review of the RFP. The general tasks that the vendors would most likely be doing, in very general terms, are as follows:*

- a. intake and initial processing of ESI (to include expansion of all storage containers, indexing, exception reporting, de-NISTing, and deduplication);*
- b. application of search terms and date limitations, including analysis of results and subsequent iterations as necessary;*
- c. presentation of ESI in a tool designed to facilitate efficient and cost-effective attorney review;*
- d. post-review processing of ESI into specified format for production as determined on a case by case (which may include conversion to imaged format of some or all data types;*
- e. Export of ESI for production.*

- 7) What date would the City like to target to begin implementation?

**Response:** *The City has no established target date for implementation. Implementation will begin when it is practicable to do so.*

- 8) We noticed that there is pricing for collection in the pricing spreadsheet, but this is not listed as a required functionality in the RFP. Would you still like this section to be completed?

**Response:** *While it is not a requirement of the RFP, if collection services are offered, we would be interested in knowing their pricing.*

- 9) Is the City of Kirkland open to receiving alternative billing models, such as fixed fees?

**Response:** *Yes, we are open to considering a fixed fee billing model.*

- 10) We are open to signing a Non-Disclosure Agreement, but would be more comfortable engaging in a Mutual Non-Disclosure Agreement. Attached above, you will find our standard Mutual NDA, but we remain open to reviewing the Mutual NDA template that the City of Kirkland has. Please let us know which you prefer.

**Response:** *As the City must comply with WA State's Public Records Act (RCW 42.56) and its requirements for responding to public records requests, we prefer that our non-disclosure agreement be used.*

- 11) Broken down by percentage (%), what is the difference between paper vs. electronic data?

**Response:** *The City does not have the data needed to answer this question.*

- 12) On premise vs. cloud deployment – Does the City use other cloud based services today? Is there a general preference for one type of deployment over the other? Will cost primarily drive this decision?

**Response:** *The city currently uses some cloud services for minor applications but has not yet developed a long-term cloud strategy. For these applications we would welcome cloud as well as on-premise or hybrid applications and pricing. Cost will be an important factor in making the decision.*

- 13) Onshore/Offshore review is not a requirement mentioned in the Requested Services or Deliverables portion of the RFP but is included in the eDiscovery Services Pricing Matrix. Is the inclusion of Onshore/Offshore review hourly rates mandatory for consideration?

**Response:** *It is not mandatory that it be included.*

- 14) Audio Search – does the City require the ability to search audio recording (i.e. voicemail)?

**Response:** *The City does not require the ability to search audio recordings. However, if a vendor can provide that capability, the City would like to know that and what the extra cost for that might be.*

- 15) Does the non-disclosure need to be executed and sent to you today or is the deadline for that the May 31<sup>st</sup> submission deadline?

**Response:** *The signed agreement may be submitted with the proposal. If not submitted with the proposal, it must be signed prior to being provided with confidential City information.*

- 16) On the top of page 29 of the RFP there's reference to standard contractual terms. Is the standard contract something you can send us?

**Response:** *A copy of the City's General Services Contract is attached to provide you with the standard terms and conditions typically required by the City.*



## GENERAL SERVICES CONTRACT

This Agreement is made between the City of Kirkland, Washington (hereinafter the "City") and

\_\_\_\_\_ (hereinafter the "Contractor"), whose address is

\_\_\_\_\_.  
(street, city, state, zip)

### I. SERVICES PROVIDED

The Contractor agrees to provide all necessary labor to perform the following services for the City:

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### II. CONDITIONS/ARRANGEMENTS

- A. Contractor will supply all materials, equipment, and skills necessary to provide the services identified above; except that the City shall provide:

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- B. Additional services/program details:

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- C.

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- D. The Contractor is responsible for the payment of or procurement of all licenses, fees, taxes, bonds, insurance, and the like, which are or may be required of a self-employed entity performing a similar service.

- E. The services identified under this Contract, and all duties incidental or necessary thereto, shall be conducted and performed diligently and competently and in accordance with professional standards of conduct and performance.

### **III. DURATION**

The services of the Contractor shall commence on the \_\_\_\_\_ day of \_\_\_\_\_ 2012, and terminate on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

### **IV. PAYMENT**

- A. The City of Kirkland shall pay Contractor for completed services rendered under this Agreement, the maximum amount of \$\_\_\_\_\_. The compensation set forth in this paragraph shall constitute the sole compensation of the Contractor for the services under this Agreement.
- B. Contractor shall submit an invoice to the Department for services rendered. The invoice must show invoice number, detailed description of work performed, total amount due, and a signature, address, and telephone number of the Contractor. Payment will be made in the normal course of business following receipt of invoice. (Net 45 days.)

### **V. LIABILITY INSURANCE**

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. A failure to obtain and maintain such insurance or to file required certificates and endorsements shall be a material breach of this Agreement.

#### **A. Minimum Scope of Insurance**

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

#### **B. Minimum Amounts of Insurance**

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

**C. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Contractor's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
2. The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

**D. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

**E. Verification of Coverage**

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

**F. Claims-made Coverage**

Any policy of required insurance written on a claims-made basis shall provide coverage as to all claims arising out of the services performed under the contract and filed within three (3) years following completion of the services so to be performed.

## **V. INDEPENDENT CONTRACTOR**

Contractor is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the City. Contractor agrees that he is solely responsible for the payment of taxes applicable to the services performed under this Agreement and agrees to comply with all federal, state, and local laws regarding the reporting of taxes, maintenance of insurance and records, and all other requirements and obligations imposed on him as a result of his status as an independent contractor. The Contractor is responsible for providing the office space and clerical support necessary for the performance of services under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance or unemployment compensation programs or otherwise assuming the duties of an employer with respect to the Contractor, or any employee of Contractor.

## **VI. ASSIGNMENT BY CONTRACTOR**

The Contractor shall not assign, transfer, convey, pledge, or otherwise dispose of this contract or any part of this Contract without written prior consent to the City.

## **VII. NONDISCRIMINATION**

The Contractor shall, in employment made possible or resulting from this Agreement, ensure that there shall be no unlawful discrimination against any employee or applicant for employment in violation of RCW 49.60.180, as currently written or hereafter amended, or other applicable law prohibiting discrimination, unless based upon a bona fide occupational qualification as provided in RCW 49.60.180 or as otherwise permitted by other applicable law. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement in violation of RCW 49.60.215 or other applicable law prohibiting discrimination.

## **VIII. TERMINATION OF CONTRACT**

This Agreement may be terminated by the City by giving ten (10) business days' written notice, with or without cause, to the Contractor. In the event of termination, all finished or unfinished reports or other material prepared by the Contractor pursuant to this Agreement shall be provided to the City. In the event of termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory services rendered prior to the effective date of termination.

## **IX. HOLD HARMLESS AND INDEMNIFICATION**

The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

## **X. COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable federal, state, and City of Kirkland laws, ordinances, regulations, and codes. Contractor must obtain a City of Kirkland business license or otherwise comply with Kirkland Municipal Code Chapter 7.02.

## **XI. NOTICES/FORMAL COMMUNICATIONS**

Written notices, requests, or grievances to the City shall be made to: \_\_\_\_\_, Attention: \_\_\_\_\_

Kirkland City Hall, 123 Fifth Avenue, Kirkland, Washington 98033. Written notices, requests, or grievances to the Contractor shall be made to the address provided by the contractor in this Agreement.

## **XII. ENTIRE AGREEMENT/MODIFICATION**

This Agreement, together with the Request for Proposals and the Proposal, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreement, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties hereto.

Agreed to and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CONTRACTOR

CITY OF KIRKLAND

\_\_\_\_\_  
(signature)

By: \_\_\_\_\_

Print Name \_\_\_\_\_

Date: \_\_\_\_\_

Address \_\_\_\_\_

City, Zip \_\_\_\_\_

Phone(s) \_\_\_\_\_

SS#/Tax ID# of Payee: \_\_\_\_\_